



中华人民共和国婚姻法

THE MARRIAGE LAW  
OF THE  
PEOPLE'S REPUBLIC  
OF CHINA

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# 中华人民共和国婚姻法

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## 第一章 总 则

**第一条** 本法是婚姻家庭关系的基本准则。

**第二条** 实行婚姻自由、一夫一妻、男女平等的婚姻制度。

保护妇女、儿童和老人的合法权益。

实行计划生育。

**第三条** 禁止包办、买卖婚姻和其他干涉婚姻自由的行为。禁止借婚姻索取财物。

禁止重婚。禁止家庭成员间的虐待和遗弃。

## 第二章 结 婚

**第四条** 结婚必须男女双方完全自愿，不许任何一方对他方加以强迫或任何第三者加以干涉。

**第五条** 结婚年龄，男不得早于二十二周岁，女不得早于二十周岁。晚婚晚育应予鼓励。

**第六条** 有下列情形之一的，禁止结婚：

- 一、直系血亲和三代以内的旁系血亲；
- 二、患麻风病未经治愈或患其他在医学上认为不应当结婚的疾病。

**第七条** 要求结婚的男女双方必须亲自到婚姻登记机关进行结婚登记。符合本法规定的，予以登记，发给结婚证。取得结婚证，即确立夫妻关系。

**第八条** 登记结婚后，根据男女双方约定，女方可以成为男方家庭的成员，男方也可以成为女方家庭的成员。

## 第三章 家 庭 关 系

**第九条** 夫妻在家庭中地位平等。

**第十条** 夫妻双方都有各用自己姓名的权利。

**第十一条** 夫妻双方都有参加生产、工作、学习和社会活动的自由，一方不得对他方加以限制或干涉。

**第十二条** 夫妻双方都有实行计划生育的义务。

**第十三条** 夫妻在婚姻关系存续期间所得的财产，归夫妻共同所有，双方另有约定的除外。

夫妻对共同所有的财产，有平等的处理权。

**第十四条** 夫妻有互相扶养的义务。

一方不履行扶养义务时，需要扶养的一方，有要求对方付给扶养费的权利。

**第十五条** 父母对子女有抚养教育的义务；子女对父母有赡养扶助的义务。

父母不履行抚养义务时，未成年的或不能独立生活的子女，有要求父母付给抚养费的权利。

子女不履行赡养义务时，无劳动能力的或生活困难的父母，有要求子女付给赡养费的权利。

禁止溺婴和其他残害婴儿的行为。

**第十六条** 子女可以随父姓，也可以随母姓。

**第十七条** 父母有管教和保护未成年子女的权利和义务。在未成年子女对国家、集体或他人造成损害时，父母有赔偿经济损失的义务。

**第十八条** 夫妻有相互继承遗产的权利。

父母和子女有相互继承遗产的权利。

**第十九条** 非婚生子女享有与婚生子女同等的权利，任何人不得加以危害和歧视。

非婚生子女的生父，应负担子女必要的生活费和教育费的一部或全部，直至子女能独立生活为止。

**第二十条** 国家保护合法的收养关系。养父母和养子女间的权利和义务，适用本法对父母子女关系的有关规定。

养子女和生父母间的权利和义务，因收养关系的成立而消除。

**第二十一条** 继父母与继子女间，不得虐待或歧视。

继父或继母和受其抚养教育的继子女间的权利和义务，适用本法对父母子女关系的有关规定。

**第二十二条** 有负担能力的祖父母、外祖父母，对于父母已经死亡的未成年的孙子女、外孙子女，有抚养的义务。有负担能力的孙子女、外孙子女，对于子女已经死亡的祖父母、外祖父母，有赡养的义务。

**第二十三条** 有负担能力的兄、姊，对于父母已经死亡或父母无力抚养的未成年的弟、妹，有抚养的义务。

## 第四章 离 婚

**第二十四条** 男女双方自愿离婚的，准予离婚。双方须到婚姻登记机关申请离婚。婚姻登记机关查明双方确实是自愿并对子女和财产问题已有适当处理时，应即发给离婚证。

**第二十五条** 男女一方要求离婚的，可由有关部门进行调解或直接向人民法院提出离婚诉讼。

人民法院审理离婚案件，应当进行调解；如感情确已破裂，调解无效，应准予离婚。

**第二十六条** 现役军人的配偶要求离婚，须得军人同意。

**第二十七条** 女方在怀孕期间和分娩后一年内，男方不得提出离婚。女方提出离婚的，或人民法院认为确有必要受理男方离婚请求的，不在此限。

**第二十八条** 离婚后，男女双方自愿恢复夫妻关系的，应到婚姻登记机关进行复婚登记。婚姻登记机关应予以登记。

**第二十九条** 父母与子女间的关系，不因父母离婚而消除。离婚后，子女无论由父方或母方抚养，仍是父母双方的子女。

离婚后，父母对于子女仍有抚养和教育的权利和义务。

离婚后，哺乳期内的子女，以随哺乳的母亲抚养为原则。哺乳期后的子女，如双方因抚养问题发生争执不能达成协议时，由人民法院根据子女的权益和双方的具体情况判决。

**第三十条** 离婚后，一方抚养的子女，另一方应负担必要的生活费和教育费的一部或全部，负担费用的多少和期限的长短，由双方协议；协议不成时，由人民法院判决。

关于子女生活费和教育费的协议或判决，不妨碍子女在必要时向父母任何一方提出超过协议或判决原定数额的合理要求。

**第三十一条** 离婚时，夫妻的共同财产由双方协议处理；协议不成时，由人民法院根据财产的具体情况，照顾女方和子女权益的原则判决。

**第三十二条** 离婚时，原为夫妻共同生活所负的债务，以共同财产偿还。如该项财产不足清偿时，由双方协议清偿；协议不成时，由人民法院判决。男女一方单独所负债务，由本人偿还。



**第三十三条** 离婚时，如一方生活困难，另一方应给予适当的经济帮助。具体办法由双方协议；协议不成时，由人民法院判决。

## **第五章 附 则**

**第三十四条** 违反本法者，得分别情况，依法予以行政处分或法律制裁。

**第三十五条** 对拒不执行有关扶养费、抚养费、赡养费、财产分割和遗产继承等判决或裁定的，人民法院得依法强制执行。有关单位应负协助执行的责任。

**第三十六条** 民族自治地方人民代表大会和它的常务委员会可以依据本法的原则，结合当地民族婚姻家庭的具体情况，制定某些变通的或补充的规定。自治州、自治县制定的规定，须报请省、自治区人民代表大会常务委员会批准。自治区制定的规定，须报全国人民代表大会常务委员会备案。

**第三十七条** 本法自一九八一年一月一日起施行。

一九五〇年五月一日颁行的《中华人民共和国婚姻法》，自本法施行之日起废止。

# THE MARRIAGE LAW OF THE PEOPLE'S REPUBLIC OF CHINA

*(Adopted by the Fifth National People's  
Congress at its Third Session on September 10, 1980,  
Put into effect from January 1, 1981)*

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### *Chapter I*

## GENERAL PRINCIPLES

**Article 1** This Law is the fundamental code governing marriage and family relations.

**Article 2** The marriage system based on the free choice of partners, on monogamy and on equal rights for the sexes, is put into effect.

The lawful rights and interests of women, children and the aged are protected.

Family planning is practised.

**Article 3** Marriage upon arbitrary decision by any third party, mercenary marriage and any other acts of interference in the freedom of marriage are prohibited. The exaction of money or gifts in connection with marriage is prohibited.

Bigamy is prohibited. Within the family maltreatment and desertion are prohibited.

## *Chapter II*

### MARRIAGE CONTRACT

**Article 4** Marriage must be based upon the complete willingness of the two parties. Neither party shall use compulsion and no third party is allowed to interfere.

**Article 5** No marriage shall be contracted before the man has reached 22 years of age and the woman 20 years of age. Late marriage and late childbirth should be encouraged.

**Article 6** Marriage is not permitted in any of the following circumstances:

(1) where the man and woman are lineal relatives by blood or collateral relatives by blood (up to the third degree of relationship); and

(2) where one party is suffering from leprosy, a cure not having been effected, or from any other disease which is regarded by medical science as rendering person unfit for marriage.

**Article 7** Both the man and the woman desiring to contract a marriage shall register in person with the marriage registration office. If the proposed marriage is found

to be in conformity with the provisions of this Law, registration shall be granted and a marriage certificate issued. The relationship of husband and wife is established when a marriage certificate is acquired.

**Article 8** After a marriage has been registered, the woman may become a member of the man's family, or the man may become a member of the woman's family, according to the agreed wishes of the two parties.

### *Chapter III*

## FAMILY RELATIONS

**Article 9** Husband and wife enjoy equal status in the home.

**Article 10** Husband and wife each has the right to use his or her family name.

**Article 11** Both husband and wife have the freedom to engage in production, to work, to study and to participate in social activities; neither party is allowed to restrain or interfere with the other.

**Article 12** Husband and wife are in duty bound to practise family planning.

**Article 13** The property acquired during the period in which husband and wife are under contract of marriage is in the joint possession of the two parties unless they have agreed otherwise.

Husband and wife enjoy equal rights in the management of the property in their joint possession.

**Article 14** Husband and wife have the duty to support and assist each other.

When one party fails to perform this duty, the party in need of support and assistance has the right to demand that the other party pay the cost of support and assistance.

**Article 15** Parents have the duty to rear and educate their children; children have the duty to support and assist their parents.

When parents fail to perform this duty, their children who are minors or who are not capable of living on their own have the right to demand that their parents pay for their care.

When children fail to perform the duty of supporting their parents, parents who have lost the ability to work or have difficulties in providing for themselves have the right to demand that their children pay for their support.

Infanticide by drowning and any other acts causing serious harm to infants are prohibited.

**Article 16** Children may adopt either their father's or their mother's family name.

**Article 17** Parents have the right and duty to subject their children who are minors to discipline and to protect them. When children who are minors have done harm to the state, to the collective, or to any other person, their parents are in duty bound to compensate for any economic loss.

**Article 18** Husband and wife have the right to inherit each other's property.

Parents and children have the right to inherit each other's property.

**Article 19** Children born out of wedlock enjoy the same

rights as children born in lawful wedlock. ~~No person~~ shall harm them or discriminate against them.

The father of a child born out of wedlock must bear part or the whole of the cost of maintenance and education of the child until he or she can live on his or her own.

**Article 20** The state protects lawful adoption. The relevant provisions in this Law governing the relations between parents and children are applicable to the rights and duties in the relations between adoptive parents and their adopted children.

The rights and duties in the relations between adopted children and their natural parents are terminated of the establishment of relationship of adoption.

**Article 21** No maltreatment or discrimination is allowed between step-parents and their step-children.

The relevant provisions in this Law governing the relations between parents and children are applicable to the rights and duties in the relations between step-fathers or step-mothers and their step-children who receive care and education from their step-parents.

**Article 22** Grandparents or maternal grandparents who have the capacity to bear the relevant costs have the duty to rear their grandchildren or maternal grandchildren who are minors and whose parents are deceased. Grandchildren or maternal grandchildren who have the capacity to bear the relevant costs have the duty to support and assist their grandparents or maternal grandparents whose children are deceased.

**Article 23** Elder brothers or elder sisters who have the capacity to bear the relevant costs have the duty to rear their

minor younger brothers or sisters whose parents either are deceased or have no capacity to rear them.

## *Chapter IV*

### DIVORCE

**Article 24** Divorce is granted when husband and wife both desire it. Both parties should apply for divorce to the marriage registration office. The marriage registration office, after clearly establishing that divorce is desired by both parties and that appropriate measures have been taken for the care of any children and property, should issue the divorce certificate without delay.

**Article 25** When one party insists on divorce, the organizations concerned may try to effect a reconciliation, or the party may appeal directly to the people's court for divorce.

In dealing with a divorce case, the people's court should try to bring about a reconciliation between the parties. In cases of complete alienation of mutual affection, and when mediation has failed, divorce should be granted.

**Article 26** If the spouse of a member of the armed forces on active service insists on divorce, consent must be obtained from the member concerned.

**Article 27** The husband is not allowed to apply for a divorce when his wife is pregnant or within one year after the birth of a child. This restriction does not apply in the case of the wife applying for divorce, or when the people's court deems it absolutely necessary to agree to deal with a divorce application by the husband.

**Article 28** After divorce, if both parties desire to resume husband-and-wife relations, they should apply to the marriage registration office for a registration of remarriage. The marriage registration office should accept such a registration.

**Article 29** The blood ties between parents and children are not ended by the divorce of the parents. Whether the father or the mother has the custody of the children, they remain the children of both parties.

After divorce, both parents continue to have the right and duty to rear and educate their children.

The guiding principle after divorce is to allow the mother to have the custody of a breast-fed infant. If a dispute arises between the two parties over the guardianship of a child after weaning and agreement cannot be reached, the people's court should make a judgement in accordance with the rights and interests of the child and the circumstances of both parties.

**Article 30** If, after divorce, one party is given custody of a child, the other party is responsible for part or all of the necessary cost of the maintenance and education of the child. The two parties should reach an agreement regarding the amount of the cost and the duration of its payment for such maintenance and education. If such an agreement is lacking, the people's court should make a judgement.

An agreement reached between parents or a judgement made by the people's court in connection with the cost of the maintenance and education of a child does not obstruct the child from making a reasonable request where necessary for either parent to increase the amount decided upon by agreement or by judicial decision.



**Article 31** In case of divorce, the disposal of the property in the joint possession of husband and wife is subject to agreement between the two parties. In cases where agreement cannot be reached, the people's court should make a judgement after taking into consideration the actual state of the family property and the rights and interests of the wife and the child or children.

**Article 32** In case of divorce, debts incurred jointly by husband and wife during the period of their married life should be paid off out of their joint property. In cases where such property is insufficient to pay off such debts, the two parties should work out an agreement with regard to the payment; if an agreement cannot be reached, the people's court should make a judgement. Debts incurred separately by the husband or wife should be paid off by the party responsible.

**Article 33** In case of divorce, if one party has maintenance difficulties, the other party should render appropriate financial assistance. Both parties should work out an agreement with regard to the details; in case an agreement cannot be reached, the people's court should make a judgement.

## *Chapter V*

### **BY-LAWS**

**Article 34** Persons violating this Law shall be subject to administrative disciplinary measures or legal sanctions according to law and the circumstances.

**Article 35** In cases where the relevant party refuses to execute judgements or rulings regarding maintenance, costs